

THE CROSBY BILL VETOED.

SUPPORTED BY THE ATTORNEY-GENERAL IN DE-
CLARING A PORTION OF THE MEASURE UNCON-

STITUTIONAL—TEXT OF THE MESSAGE.
ALBANY, April 12 (Special).—Governor Hill vetoed the New-York and Brooklyn High License bill to-night, sending his veto message to the Assembly, together with opinions by Attorney-General O'Brien and George F. Comstock, ex-Judge of

play in the interest of the liquor dealers would seem to show conclusively that the Governor is indeed their "one friend." He has put the Democratic party in its old-time attitude of favoring unrestricted liquor selling. The assembly received the message calmly as it was read. Mr. Crosby then made the usual motion that the veto message be laid on the table. Mr. Sheehan, the Democratic leader, cried out: "Read the message aloud." The Speaker replied: "The message has been read down to the Governor's signature. That is sufficient." "We had an appendix this morning," said Mr. Erwin, referring to the other veto. Mr. Sheehan was not gratified and the Assembly then adopted Mr. Crosby's motion. The Republicans will attempt to pass the bill over the Governor's veto to-morrow. They will fail, of course, as the Democrats will sustain the Governor, but a party record will be made. The Governor's declaration that two fatal objections to the bill rendered it utterly impossible. One of them is that the measure applies only to New-York and Brooklyn, thus imposing "an unequal burden on the citizens of the State." "The second objection," he says, "is that a portion of its provisions are clearly unconstitutional." The message is given in full below, with the exception of two tables:

There are two fatal objections to this bill which render its approval impossible:

1. The bill is objectionable as they change existing excise laws, are only made applicable to the cities of New-York and Brooklyn. All the other cities of the State are excluded. This is manifestly unconstitutional. It is rendered most objectionable, and this was not done inadvertently, but deliberately and intentionally. That renders it a clear violation of the constitution. The first reading of the bill in the Assembly, it was amended for the avowed purpose of rendering it certain that its provisions should be applicable to all cities and towns in the State besides New-York and Brooklyn.

2. If the provisions of the bill were regarded as beneficial to the State, it is manifestly unconstitutional. It is expected to promote the cause of temperance. It is difficult to discover a valid reason for the anxiety to maintain this bill. The bill was introduced in the Assembly, and a amendment was offered in both houses applying the provisions of the bill to the cities of New-York and Brooklyn. It was applied to several of the principal interior cities, but each of these amendments was rejected by a vote of 100 to 10. The bill was then made a question of the bill. This discrimination was not made at the request of the immediate representatives of the cities of New-York and Brooklyn. It was made at the time it was adopted against the protest of nine-tenths of them, and was imposed upon these two cities by representatives of the State.

presented, which is apparently so partial, in-
sensitive and disingenuous, should be permitted to ripen
into law. Mr. Tilden was elected Governor of this State in
1874, by more than fifty thousand majority, upon a
platform which expressly declared in favor of "uniform
and equitable excise laws." For many years this has
been the controlling and settled policy of the State.
The law now proposed is in every particular, in its
application to every part of the State. But, by the terms
of the proposed law, certain acts which are perfectly
lawful in the interior are made criminal the moment
they are committed in the city of New York. The mini-
mum, as well as the minimum license fee is prescribed
by statute; but, by the peculiar provisions of this act,

It thus appears that the keeper of a restaurant in New York is not to be treated as a dealer in wine, beer and liquor, but as a dealer in wine, beer and beer-license and may at the same time lawfully "keep on hand" intoxicating liquors, while in other States he is treated as a dealer in wine, beer and beer-license, and while in other cities he must pay for his liquor license a sum "not less than thirty nor more than fifty dollars," in New York he must pay no more than five dollars, and in other cities he must pay not less than one thousand and as much more as the board of excise in its discretion, while in some States the license is sold for a fixed sum, and in some amount or extent of the business carried on by him. These distinctions do not seem to be based upon any principle, and are therefore arbitrary and altogether indefensible.

It is like every other law of the State, it should be fair and reasonable in its provisions. It should be the substantially uniform throughout the State. This is the cardinal doctrine of Republican Government, the same in the country as in the great cosmopolitan cities of New York and Brooklyn, but it does mean that the law should be the same for the farmer and the city dweller as broad and liberal as those which apply to the country—it is penal provisions should be uniform, and in all cases should be the same for the farmer and the city dweller as the State alike. But this bill imposes an unequal burden on the citizens of the State. Equality—equality of law is the cardinal doctrine of Republican Government—the fundamental principle of Republican Government.

license fee, with view to revenue, is an exercise of the power of taxation." (Coley on Const. Lim., 201, note 4.) It must be imposed upon those who are engaged in the business. No good reason exists why a heavier taxation should be imposed upon a dealer in Buffalo, than upon a dealer in New York. If a dealer in Buffalo cannot be protected that the business of the former can necessarily be protected in New York. If a dealer in Buffalo can do business a greater evil in New York than in Buffalo. Suppose a higher license fee was exacted of the lawyer, the physician, the druggist, the printer, the publisher, the grocer, would not all admit the inequality of the burden? If the measure be an evil, New York and Brooklyn would be equally benefited by its removal. The evil in New York and Brooklyn should not monopolize its advantages.

Before state license fee is a tax imposed by the State, and like every other tax, it should be just and equal in its operation. It should be no more exacted of one citizen than of another, and should be tolerated in our state. A license fee applicable to the whole State and based upon the

in the State, and paying a reasonable minimum license fee to be charged in every city, and even in every town and village in the State, and the same license fee to be charged in every city by the local authorities everywhere, if not more satisfactory would at least be free from the discrimination contemplated by this bill in respect to the enactment. The United States liquor license law is uniform throughout the State; the collateral inheritance tax is uniform throughout the State; and New York and Brooklyn as elsewhere; the regulations and penalties concerning the sale of oleomargarine are uniform throughout the State; and the law concerning adulterated food supply to those cities with no greater severity than anywhere else in the State. The bill in question is a discrimination whatever has been advanced why the unjust discrimination contemplated by this bill in respect to the sale of liquor is not to be made a crime.

If the number of licensed places in those cities was very much greater than in the other cities of the State in proportion to the population, it would be reasonable to make some plausible pretext or excuse for the ex-

On the contrary, the very reverse is the case. The number of licenses in force in the State, as shown from the boards of Excise in every city in the State, showing the number of licenses now in force in such cities, and the fact is established that the city of New York, there are seven in all in twenty of them the number of licenses therein is greater in proportion to the population than in the city of New-York, and in all cities of the State there are more licenses in proportion to the population than in the city of Brooklyn. It is thus apparent that there is less necessity for legislative interference with the boards of Excise in the cities of New York, New-York and Brooklyn than for almost any other part of the State.

The Governor then gives a table to show that out of the twenty-seven cities in the State twenty have a greater number of licenses in force in proportion to their population than New-York and twenty-five a

able New-York has 7.27 licenses per 1,000 population and Brooklyn 5.32, while Jamestown has .32. The ratio in other cities ranges from 5.33 in Watertown to 13.75 in Buffalo. In 23 villages and

19.76 in Olean. The message continues:

Those who voted for the passage of this bill in the legislature must have acted in ignorance of these facts, or else, in the commendable desire on their part to remove New-York and Brooklyn from the evils arising from the great number of licensed places therein, must have overlooked the greater danger at their own

2d. The second objection to this measure is that a portion of its provisions are clearly unconstitutional. It appears that upon the third reading of the bill in the assembly there was hastily and without deliberation or previous reflection, added thereto the following clause :

" If any person having a license of the second or fourth class shall keep on hand on the premises licensed, any intoxicating liquors other than those permitted in his license, he shall be guilty of a misdemeanor and his license shall be

This clause is not only seriously defective in not providing any method or manner of forfeiting the license or adjudicating the forfeiture, or judicially determining the guilt of the alleged offender, but assuming to act as judge, jury and executioner, it declares the party guilty, and forfeits his license without any further proceedings either by or against him. The decision of our highest court is, that this cannot be done. (Commissioners of

also more than defective in form—it conflicts with the organic law of the State. Liquors are recognized as property under our present Constitution and by the decisions of the courts. Their sale may be regulated and restricted, but it cannot be prohibited; they cannot be confiscated. What cannot be done directly cannot be done indirectly or by evasion. Yet this provision makes mere "keeping on hand" of liquors—without any

If this provision can be upheld, it would prevent the proprietor of a respectable restaurant from keeping in his establishment a bottle of brandy even for his own

